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Introduction

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Introduction

*Minal A. Shah**

The Hastings Women's Law Journal (HWLJ) 1998 Symposium entitled "Economic Justice for Sex Workers" proved to be a dynamic, challenging and controversial discussion of various issues faced by sex workers as well as advocates, scholars and lawmakers. These issues included the unionization of exotic dancers, the socio-economic status of sex workers, the decriminalization of prostitution and feminist legal theory. The Symposium consisted of three panels: "Sexual Labor and Feminist Jurisprudence," "Decriminalization and Prostitution as Work" and "Sex Workers and the Labor Movement."¹ The articles in this issue reflect a diversity of perspectives and a range of topics that will hopefully spark further discussion, research and activism.

* Former Symposium editor for the *Hastings Women's Law Journal* and organizer of the Economic Justice for Sex Workers Symposium. I am currently practicing employment law in San Diego and have accepted a judicial clerkship position in Hawaii. On behalf of HWLJ, I would like to thank all the participants and organizers who made the Symposium a success. I would also like to personally thank Deanna Jordan Brannon, a woman who has dedicated much of her life to helping women create meaningful choices in their lives.

1. The "Economic Justice for Sex Workers" Symposium took place at University of California, Hastings College of the Law in San Francisco, California on March 28, 1998. The panels for the HWLJ 1998 Symposium were as follows:

Panel I "Sexual Labor and Feminist Jurisprudence": Elizabeth Bernstein from U.C. Berkeley, Department of Sociology; Margaret Baldwin, Professor of Law, Florida State University; Melanie Simmons from Florida State University, Department of Sociology; Cynthia Chandler, Director, Women's Positive Legal Action Network and Rebecca Eisenberg, J.D., freelance writer. The moderator for Panel I was Jenni Parrish, Professor of Law, U.C. Hastings College of the Law.

Panel II "Decriminalization and Prostitution as Work": Carol Leigh, Activist, Filmmaker and member of COYOTE (Call Off Your Old Tired Ethics); Norma Jean Almodovar, Executive Director COYOTE (LA), Co-Chair of the organizing committee for the 1997 International Conference on Prostitution; Vednita Carter, Executive Director of Breaking Free and Susan Breall, San Francisco Deputy District Attorney. The moderator for Panel II was Kate Bloch, Professor of Law, U.C. Hastings College of the Law.

Panel III "Sex Workers and the Labor Movement": Margo St. James, Founder of COYOTE (SF); Johanna Breyer, Co-Founder of the Exotic Dancers Alliance, Lynn Rossman Faris, labor attorney with the firm Leonard, Carder, Nathan, Zuckerman, Ross, Chin & Remar and Miles Lochker, Chief Counsel, Division of Legal Standards Enforcement, State Labor Commission Attorney. The moderator for Panel III was Reuel Schiller, Professor of Law, U.C. Hastings College of the Law

The inspiration for this Symposium came from the organizing efforts and successes of sex workers in San Francisco as well as the need to find new ways of talking about the diverse and often divergent needs of women in the sex industry.² Exotic dancers from popular clubs experience unsafe working conditions, lack employee benefits, are misclassified as independent contractors, and have managers who extort money and decrease their wages. They deal with many of the same issues as other exploited workers, but because of the nature of their industry are rarely taken as seriously. Prostitutes are in an even more vulnerable position because their activities are illegal, making it nearly impossible for them to turn to the legal profession to redress their grievances. With limited but promising legal successes, sex workers reached out to the legal community and labor organizers. The efforts of these organizers raised many questions about how lawyers and legal workers could begin to address the immediate needs of sex workers and whether feminist legal theory could provide a framework for discussion. This was our starting point.

We began organizing our Symposium by discussing the need for addressing labor issues faced by sex workers. The discussion quickly expanded to include critiques of feminist theories and agendas, decriminalization of prostitution, harm reduction, sexual abuse, violence against women, the concerns of sex workers seeking asylum or legal immigration status and the efficacy and legitimacy of San Francisco's "john schools." In addition, panelists and Symposium participants addressed the protection of the health and safety of sex workers, strategies for grassroots organizing, recent efforts at unionization and the response of organized labor.

This issue provides only a sampling of the range of topics addressing the economic and social needs of sex workers, as well as obstacles to and possibilities for legal reform. Committed to providing a forum for alternative voices, both inside and outside the legal community, HWLJ reached out to women in the sex industry and grassroots organizers to include their voices in this discussion. Half of the pieces in this issue are written by current or former sex workers. As pointed out by several speakers at the symposium and by Vednita Carter and Evelina Giobbe in *Duet: Prostitution, Racism and Feminist Discourse*, scholarly journals are not accessible forums for most sex workers and often do not reflect the reality of these women's lives. Acknowledging that our audience is mainly the legal and academic communities, this issue is an effort to give a voice to the experiences and perspectives of the women who are often the subject of scholarly publications.

This issue continues the long-standing debate over issues of

2. Acknowledging that many male sex workers face similar issues, the focus here was primarily on the experiences of women.

prostitution and sexual labor that have historically been the subject of feminist scholarship. While often criticized for being too abstract and not rooted in the actual experiences of women, feminist scholarship has had an impact on lawmakers and on the political debate surrounding sex work.³ The focus of much contemporary scholarship has revolved around various theories of agency, the meaningfulness of the choices made by women and the extent to which their bodies and lives are controlled and exploited by others—johns, pimps, club owners, police, lawmakers and scholars.

In *What's Wrong with Prostitution? What's Right with Sex Work? Comparing Markets in Female Sexual Labor*, Elizabeth Bernstein finds that among feminists, “prostitution has been abundantly theorized, yet insufficiently studied.” Bernstein categorizes the feminist literature into three categories which she defines as 1) radical feminist critiques of prostitution, including works by Catharine MacKinnon and Carole Pateman; 2) sex-positive feminist defenses of prostitution, including works by Anne McClintock and Lynn Sharon Chancer; and 3) feminist contextualizations: situating the meaning of prostitution empirically, including works by Laurie Shrage. Utilizing case studies of prostitutes, she recognizes “that the logic of male dominance may take different forms in distinct social strata” and that sex work can be both “liberatory” and “disempowering.”

While describing the polarized camps of feminist thought as the theories of choice and constraint, Cynthia Chandler also rejects any “one universal theory of woman’s sexual agency as a ‘truth.’” However, Chandler goes a step further. In *Feminists as Collaborators and Prostitutes as Autobiographers: De-Constructing An Inclusive Yet Political Feminist Jurisprudence*, Chandler examines how some feminist scholarship “attempts to exclude some women’s stories to maintain uniformity and solidarity within their own jurisprudence” by claiming to present women’s reality through what she describes as a “rhetoric of truth.” She argues for the need for a critical yet inclusive feminist jurisprudence and criticizes those who would exclude the voices of some women as “collaborators” in the further oppression of women.

Alongside the voices of feminist and legal scholars, this issue also provides sex workers an opportunity to share their own experiences as dancers, prostitutes, labor organizers and political advocates. Dawn Passar’s photos give us a glimpse into the lives and working conditions of exotic dancers. Many pieces by sex workers criticize contemporary feminist scholarship, although from very different viewpoints. Margo St. James, advocating for and organizing sex workers since the early 1970s, challenges “all young feminists to take a hard look at today’s feminism and

3. See, e.g., Margaret A. Baldwin, *Public Women and The Feminist State*, 20 HARV. WOMEN’S L.J. 47, 142-43 (1997) (discussing the MacKinnon/Dworkin anti-pornography statute).

its parallels to Victorian values.” Siobhan Brooks’ discussion with Angela Davis takes a brief historical look at the progression of the debate among feminists and other activists around issues of pornography and sex work “outside of the vexed framework of morality.”

Carter and Giobbe charge feminists and forums such as HWLJ’s Symposium with exploiting women and not being capable of confronting the “stark reality of prostitution on its own terms, in its own language and in the social context that it exists.” Advocating for an end to prostitution, they criticize de-criminalization or legalization proposals for not addressing the problems of exploitation by pimps and violence by johns and for a lack of race and class consciousness.

In contrast, Norma Jean Almodovar, an advocate of decriminalization formerly with the Los Angeles Police Department, criticizes what she calls the “prostitute as ‘victim’ theory” which does not recognize the choices of some women as valid and fails to identify police enforcement of prostitution laws as a major source of abuse. Activist Carol Leigh provides a framework for the debate surrounding prostitution and decriminalization by defining terms and marking the battle lines in the context of her work as a member of the San Francisco Task Force on Prostitution.

This issue also includes several articles which analyze some legal trends and possibilities for reform. In *Shining the Spotlight on Johns: Moving Toward Equal Treatment of Male Customers and Female Prostitutes*, Julie Leffler examines the inequities of law enforcement and evaluates a number of legislative attempts at law reform. For example, in San Francisco some women convicted of prostitution have the option of attending classes as an alternative to jail and are even provided services such as job counseling. In *A Million Dollars and an Apology: Prostitution and Public Benefits Claims*, Margaret Baldwin examines some of the legal obstacles and opportunities for making claims for public benefits. In particular, Baldwin discusses whether sex workers who are victims of violence could meet eligibility requirements under recent federal legislation designed to address the needs of victims of domestic violence. Finally, Sarah Chun’s piece, entitled *An Uncommon Alliance: Economic Justice and Empowerment for Exotic Dancer’s through Labor Unions*,” provides a glimpse into the difficulties faced by exotic dancers and their attempts to assert their rights as workers through unionization.

The sex industry is rapidly expanding. With newly emerging markets and on-line technologies, sex workers face even more challenging issues. There are expanding choices as well as increasing opportunities for exploitation. Feminist scholarship can provide a valuable resource to activists and to lawmakers, but it must reflect the actual experiences of sex workers. These experiences are as varied as the women who live them. Whether activists, organizers and scholars can meet the challenge of effectively responding to this diversity is yet to be seen.